

Notice of Allowability

Application No.

09/990,312

Examiner

Romain Jeanty

Applicant(s)

MADDEN, MARTIN P.3

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5/4/2004.
2. ☒ The allowed claim(s) is/are 1-24.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Terminal Disclaimer

1. The terminal disclaimer filed on June 25, 2003 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Patent No. 6,345,262 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Allowable Subject Matter

2. Claims 1-24 are allowed.

3. The following is an examiner's statement of reasons for allowance:

This instant invention is directed to a non-obvious improvement over the invention described in Patent number 5,644,726 to Oppenheimer. Oppenheimer teaches a method for creating single mortgage documents with multi-part obligation, one of which finances real estate property ownership through a combination of mortgage debt and equity participation. Oppenheimer, however, fails to teach or suggest a mortgage document which specify an equity participation mortgage and a principle repayment component and the timing of equity participation is indeterminable as recited in independent claims 1 and 24.

This instant invention is directed to a non-obvious improvement over the invention described in Patent number 5,644,726 to Oppenheimer. Oppenheimer teaches a method for creating single mortgage documents with multi-part obligation, one of which finances real estate property ownership through a combination of mortgage debt and equity participation. Oppenheimer, however, fails to teach or suggest a mortgage document which include the equity participation mortgage obligation and which specify that the lender shares in a predetermined percentage of realized appreciation on subsequent sale

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of the sale of the asset which subject to the mortgage and that timing of equity participation is indeterminable as recited in independent claims 10, 11, 17, and 21.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 - a. "Issue in the design of loyalty sponsored home ownership", discloses an appreciation share wherein buyers would pay back only when the compound interest of the loan for the house net of the options.
 - b. "The calm before the storm (Mortgage market may become the key battleground in retail banking in the UK), discloses wherein a bank takes a proportion of a future appreciation in the value of a property.
 - c. Dialog (International Capital Markets: Warburg launches [GBP] 145m offering Capital Markets News Digest: (SBC Warbug will issue Ukpdl45 mil equity-linked mortgage-backed bond, first issue of its type), discloses given residential borrowers a subsidized rate of interest in exchange for share of any capital appreciation of their houses.
 - d. Carlisi et al (Manufacturing Affordable Mortgage), discloses a borrower an investor earning a percent share in the appreciation of a property own by a borrower.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Romain Jeanty whose telephone number is (703) 308-9585. The examiner can normally be reached on Mon-Thurs 7:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

R J

October 24, 2004


ROMAIN JEANTY
PRIMARY EXAMINER
Art Unit 3623